

HOUSE BILL NO. 293

INTRODUCED BY SMITH, BIXBY, COONEY, ELLINGSON, FRANKLIN, HEDGES, JAYNE, JUNEAU,
PEASE, ROUSH, SMALL-EASTMAN, TROPILA, WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING RACIAL PROFILING; REQUIRING LAW
ENFORCEMENT AGENCIES TO ADOPT A DETAILED WRITTEN POLICY THAT CLEARLY DEFINES THE
ELEMENTS CONSTITUTING RACIAL PROFILING AND THAT PROHIBITS RACIAL PROFILING; REQUIRING
THE POLICY TO INCLUDE A PROCEDURE FOR INVESTIGATING COMPLAINTS OF RACIAL PROFILING;
REQUIRING A LAW ENFORCEMENT AGENCY TO TAKE APPROPRIATE ACTION AGAINST A PEACE
OFFICER VIOLATING THE POLICY AGAINST RACIAL PROFILING; DEFINING "RACIAL PROFILING"; AND
PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Racial profiling prohibited -- definitions. (1) A peace officer may not
engage in racial profiling.

(2) The race or ethnicity of an individual may not be the sole factor in:

(a) determining the existence of probable cause to take into custody or arrest an individual; or

(b) constituting a particularized suspicion that an offense has been or is being committed in order to
justify the detention of an individual or the investigatory stop of a motor vehicle.

(3) Each municipal, county, consolidated local government, and state law enforcement agency shall
adopt a detailed written policy that clearly defines the elements constituting racial profiling. Each agency's policy
must prohibit racial profiling. The policy must include a procedure that the law enforcement agency will use to
address complaints concerning racial profiling. The policy must be available for public inspection during normal
business hours.

(4) If an investigation of a complaint of racial profiling reveals that a peace officer was in direct violation
of the law enforcement agency's written policy prohibiting racial profiling, the law enforcement agency shall take
appropriate action against the peace officer consistent with applicable laws, rules, ordinances, or policies.

(5) For the purposes of this section, the following definitions apply:

(a) "Peace officer" has the meaning provided in 46-1-202.

(b) "Racial profiling" means the detention, official restraint, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of the individual.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 44, chapter 2, and the provisions of Title 44, chapter 2, apply to [section 1].

NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2003.

- END -